



Laura McCoy  
Zapata County Independent School District  
P.O. Box 158  
Zapata, Texas 78076  
Ph. (956) 765-3823 Ext. 2508

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the matter of )  
Request for Waiver and/or Appeal by )  
Zapata County Independent School District )  
Zapata, Texas )  
Schools and Libraries Universal Service )  
Support Mechanism )  
Attention: Ms. Gina Spade, Deputy Division Chief )

Received & Inspected  
JAN 18 2011  
FCC Mail Room  
CC Docket 96-45  
CC Docket No. 02-06

**REQUEST FOR REVIEW OF DECISION OF THE UNIVERSAL SERVICE  
ADMINISTRATION COMPANY, SCHOOLS AND LIBRARIES DIVISION BY  
ZAPATA COUNTY INDEPENDENT SCHOOL DISTRICT, OR IN  
THE ALTERNATIVE, REQUEST FOR A WAIVER OF SECTION 54.404(a)  
OF THE COMMISSION'S RULES**

**Funding Year 10** (July 1, 2007 to June 30, 2008)  
**Billed Entity Name:** Zapata County Independent School District  
**Billed Entity No.:** 141503  
**Billed Entity FCC Registration No.:** 0012731899  
**Form 471 No.:** 549988  
**Funding Request Number:** 1517632

**I. Introduction and Summary**

Zapata County Independent School District ("Zapata CISD"), and in accordance with Sections 54.719(c) and 54.722 of the Commission's Rules, appeals a decision of the Universal Service Administrative Company ("USAC"), Schools and Libraries Division (the "SLD"). Specifically, Zapata CISD appeals or alternatively, requests a waiver of the USAC decision issued November 12, 2010, (EXHIBIT A) in which it affirmed a previous determination that the district's Form 471 filed with respect to its procurement of services did not comply with state and/or local competitive bidding guidelines and did not get board approval for the Internal Connections services, therefore, should not have been funded.

The undersigned is the Chief Financial Officer ("CFO") for Zapata County Independent School District ("Zapata CISD") located at 17<sup>th</sup> and Carla, Zapata, Texas 78076, a Texas school district which is an applicant under the Universal Service Support Mechanism ("E-Rate Program" or

“Program”) for the Schools and Libraries Division Support Mechanism (“SLD”), commonly known as the E-Rate program. This request comes before the Commission in a timely manner from the Administrator decision letter.

*“After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of the audit it was determined that the applicant failed to comply with the FCCs competitive bidding requirements. The applicant did not advertise in the local paper when and where submitted bids would be received and opened. Nor did the applicant get board approval for the Internal Connections services. According to the FCCs competitive bidding requirements, Applicants are required to follow state and local procurement requirements. Since the Applicant failed to comply with the procurement requirements, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the Applicant.”*

During an attestation audit conducted in April, 2009 (Exhibit B), Ernst & Young found that Zapata CISD did not publish their notice of intent to purchase in the local newspaper. Zapata CISD respectfully submits that because of special circumstances, the newspaper advertisement was not placed in the local newspaper. Zapata County is a very small town with a population of 5,390 according to the July 2007 statistical publication with a newspaper circulation that is also very small. Two dominant special circumstances occurred that led this oversight of publishing in the local newspaper: 1) during this filing process, the district Coordinator of Technology, Mr. Gilbert Flores, was on active duty in Iraq for his second tour of duty. This made the application process impossible for the district to handle so they contracted with an outside consulting service to handle all of the E-Rate processes which led to 2) the second special circumstance: someone that was not familiar with the district or the state purchasing requirements handled the applications. We submit that the intent of the competitive bidding requirements were followed and we request an appeal of the decision to recover all funding for this FRN.

Secondly, the attestation audit also found that Zapata CISD did not get board approval for the email and webhosting services. Zapata CISD respectfully disagrees with this finding and has included board minutes in which the approval for all purchases was made (Exhibit C and Exhibit D respectively). The date of the board approval was on February 18, 2005 for this multiyear contract, and the FCC Form 471 (549988) was filed and certified on January 29, 2007 pointing back to the establishing Form 470 from the previous funding year. Both special circumstances listed above are the direct result for the board approval letters not being found during the audit. We contend that had these two circumstances not been in effect, neither of the findings would have occurred.

For the reasons outlined in this document, Zapata CISD believes it has complied with the intent of its obligations to the best of their ability given the situation present at the time pursuant to both 47 C.F.R. § 54.504(a). The SLD’s decision in this case would cause Zapata CISD to be required to reimburse USAC for over \$30,750.00 which would cause undue hardship on the District. Such a result is contrary to the intent of the Telecommunications Act and is a wholly inequitable result. As such, the SLD’s determination of November 12, 2010 should be reversed by the Commission. In the alternative, Zapata CISD seeks a waiver of the Commission’s rules to

allow Zapata CISD to retain the funding it received. In this case, granting a waiver would avoid the inequitable result of forcing the District to reimburse the SLD despite the fact that Zapata CISD made every effort to comply with the Commission's rules and state and/or local requirements.

**Sequence of Events and Background:**

The C.F.R. requires that all eligible schools seek competitive bids pursuant to 47 C.F.R. § 54.404 for all services eligible for support under §§ 54.502 and 54.503, which include Email and Webhosting services. According to the C.F.R., "[t]hese competitive bid requirements apply in addition to state and local competitive bid requirements and are not intended to preempt such state or local requirements." *Id.*, § 54.404(a). The eligible school is required to post a Form 470 to the USAC Administrator (the "Administrator") which is then posted by USAC on its website seeking bids for the services at issue. *Id.*, § 54.404(b). Among other requirements, the District is required to review and evaluate the bids and accept the bid that is the most cost-effective but only after the Form 470 has been posted for at least 28 days. *Id.* Subsequently, an eligible school "shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator." 47 C.F.R. § 54.404(c). The "Form 471 shall be signed by the person authorized to order telecommunications and other supported services for the eligible school, library, or consortium and shall include that person's certification under oath" that, among other things, "[t]he entities listed on the FCC Form 471 application have complied with all applicable state and local laws regarding procurement of services for which support is being sought." 47 C.F.R. § 54.404(c)(vi). The certification corresponds with 47 C.F.R. § 54.404(a) statement that the competitive bid requirements apply in addition to state and/or local competitive bid requirements.

Zapata CISD is an eligible school district which seeks discounts for eligible services pursuant to 47 C.F.R. § 54.504. Pursuant to this regulation, Zapata filed Form 470 (987070000574546) for Email and Webhosting services on 01/11/2006, which is one year prior to this funding year because it is a multiyear contract, this being year two (2) of the contract. After waiting more than 28 days, as required by 47 C.F.R. § 54.504 "before making [a] commitment with the selected providers of services," Zapata CISD received a total of three (3) bids. An evaluation of the 3 bids was concluded with one vendor, eChalk Inc. (SPIN 143020189) being selected as the most cost effective vendor based on E-Rate program rules. On February 18, 2005, the Zapata CISD Board of Trustees approved the award to eChalk Inc. On 01/29/2007, Zapata CISD filed Form 471 (549988) pointing back to the establishing 470 from the previous year and pursuant to 47 C.F.R. § 54.504(c) certifying that it had a signed contract and that it had complied with all state and local laws regarding the purchase of these services.

On July 26, 2007 the SLD sent its Funding Commitment Decision Letter ("FCDL") regarding these services. The services, which consisted of E-Mail and Webhosting services, were then implemented.

## REQUEST FOR A WAIVER

In the event that the Commission does not grant Zapata CISD's appeal, the District requests, in the alternative, pursuant to Section 1.3 of the Commission's Rules, that the Commission grant a waiver of its rules to permit Zapata CISD to qualify under the Telecommunications Act. 47 C.F.R § 1.3. For the reasons detailed below, Zapata CISD believes such a waiver is equitable and consistent with the Act as well as prior Commission waivers relating to the filing of FCC Forms 470 and 471.

Section 1.3 provides that the Commission may waive its rules "*if good cause therefore is shown.*" 47 C.F.R § 1.3. Generally, a waiver is appropriate if "*special circumstances warrant deviation from the general rule and such deviation will serve the public interest.*" *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990);

*"6. Generally, the Commission's rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest."*

*See also WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969);

*"The Commission may waive its rules 'for good cause shown'. To obtain a waiver of the Commission's rules, a waiver proponent must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative. An entity seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver."*

A waiver is appropriate here because Zapata CISD complied to the best of their ability with the requirements of the Telecommunications Act and with state and local bidding requirements. In the event the Commission does not agree with the District that it complied with the letter and intent of 47 C.F.R. § 54.404(a), it should waive these rules and reverse the SLD's determination of November 12, 2010.

There is no evidence in the record that Zapata CISD engaged in activity intended to defraud or abuse the E-Rate program. Denying its requests for funding would create undue hardship, not serve the public interest, and prevent it from receiving E-Rate funding for work already performed by eChalk for services that are being used in the District's classrooms in compliance with program rules. Accordingly, we feel good cause exists to grant Zapata CISD a waiver of section 54.504(a) of the Commission's rules. Additionally, Zapata CISD has put an Internal



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Control Plan (ICP) into place to keep such occurrences from ever occurring again. This ICP is an internal document that was developed as a result of the Ernst and Young audit that clearly sets forth strategies for all aspects of the E-Rate process with recognizable status, timelines, person responsible, and evidence of action within the document. Clearly, Zapata CISD has met the recommendations that were outcomes of this audit and subsequent report that was filed. We find this a 'best practices' type of document that will be utilized within the district for all future E-Rate activities.

### **CONCLUSION**

Zapata CISD respectfully requests that the Commission reverse the SLD's determination of November 12, 2010 in which it affirmed a previous determination that Zapata CISD's Form 471 filed with respect to its procurement of Webhosting and Email services did not comply with TEA procurement policies, and, therefore, should not have been funded. In the alternative, Zapata CISD seeks a waiver as described herein, to allow Zapata CISD to retain the funding it received pursuant to the Funding Commitment Letter issued by the SLD on July 26, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Laura A. McCoy', is written over a horizontal line.

Laura A. McCoy  
Chief Financial Officer  
Zapata County Independent School District

### Enclosures:

ExhibitA\_eChalkCOMAD.pdf  
ExhibitB\_E&Y\_AuditReportOfOct5\_2009.pdf  
ExhibitC\_BOTApprovalOfContract.pdf  
ExhibitD\_DOTApprovalForBudget.pdf

# Exhibit A



Universal Service Administrative Company

RECEIVED  
11-22-2010

Schools and Libraries Division

Notification of Commitment Adjustment Letter

Funding Year 2007: July 1, 2007 - June 30, 2008

November 12, 2010

Carlos Alvarez  
ZAPATA INDEP SCHOOL DISTRICT  
P.O. BOX 242157  
Montgomery, AL 36124

Re: Form 471 Application Number: 549988  
Funding Year: 2007  
Applicant's Form Identifier: 141503-2007-471-1A  
Billed Entity Number: 141503  
FCC Registration Number: 0012731899  
SPIN: 143020189  
Service Provider Name: eChalk Inc.  
  
Service Provider Contact Person: John Aiello

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at [http://www.fcc.gov/debt\\_collection/faq.html](http://www.fcc.gov/debt_collection/faq.html).

Schools and Libraries Division - Correspondence Unit  
100 South Jefferson Road, P.O. Box 902, Whippany, NJ 07981  
Visit us online at: [www.usac.org/sl](http://www.usac.org/sl)

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRN) you are appealing. Your letter of appeal must include the
  - Billed Entity Name,
  - Form 471 Application Number,
  - Billed Entity Number, and
  - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 S. Jefferson Rd.  
P. O. Box 902  
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

## FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division  
Universal Services Administrative Company

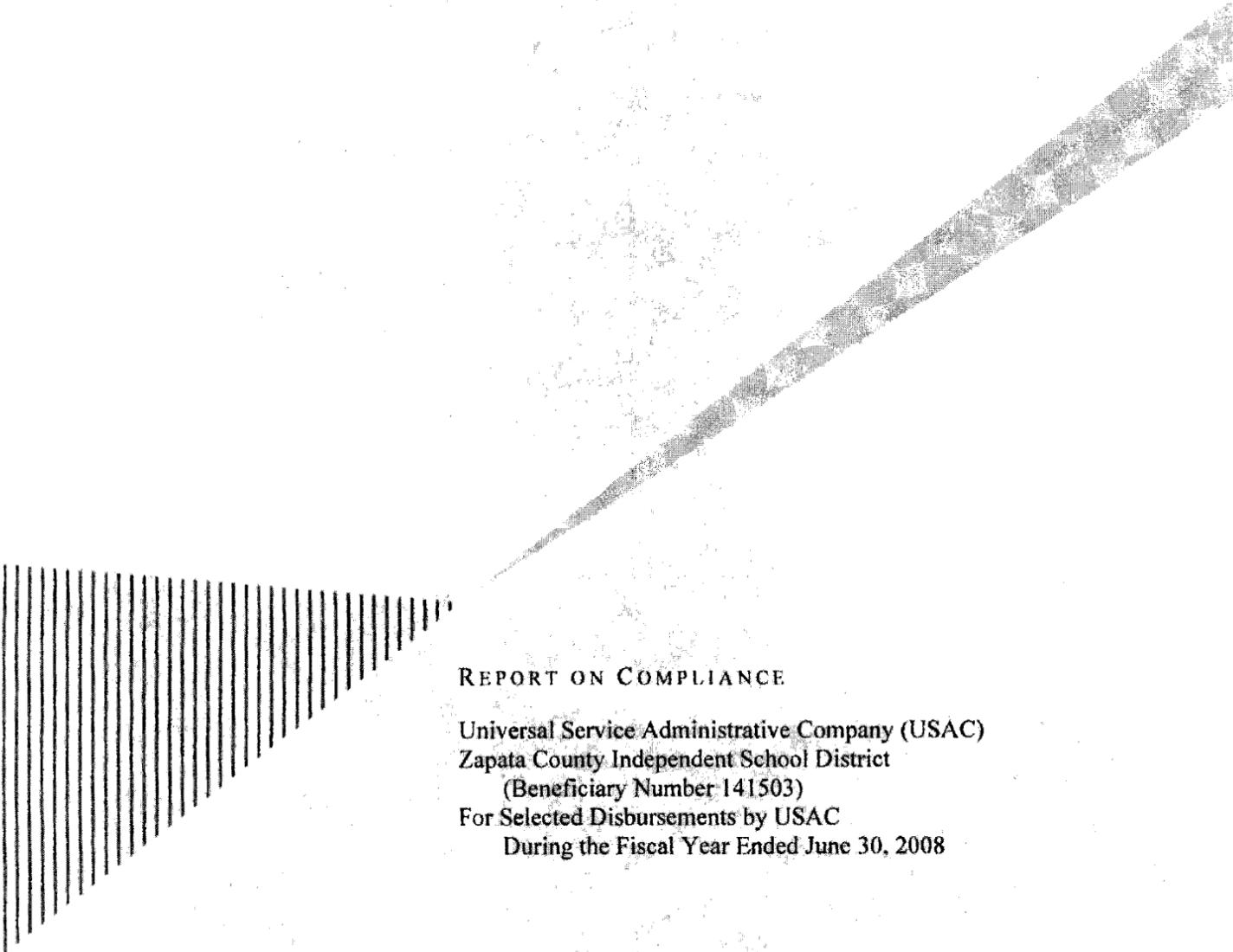
cc: John Aiello  
eChalk Inc.

Funding Commitment Adjustment Report for  
Form 471 Application Number: 549988

Funding Request Number:	1517632
Services Ordered:	INTERNET ACCESS
SPIN:	143020189
Service Provider Name:	eChalk Inc.
Contract Number:	04-1773-05A
Billing Account Number:	
Site Identifier:	141503
Original Funding Commitment:	\$31,848.26
Commitment Adjustment Amount:	\$31,848.26
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date	\$30,750.05
Funds to be Recovered from Applicant:	\$30,750.05

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of the audit it was determined that the applicant failed to comply with the FCCs competitive bidding requirements. The Applicant did not advertise in a local paper when and where submitted bids would be received and opened. Nor did the applicant get board approval for the Internal Connections services. According to the FCCs competitive bidding requirements, applicants are required to follow state and local procurement requirements. Since the applicant failed to comply with the competitive bidding requirements, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant.

# Exhibit B



REPORT ON COMPLIANCE

Universal Service Administrative Company (USAC)  
Zapata County Independent School District  
(Beneficiary Number 141503)  
For Selected Disbursements by USAC  
During the Fiscal Year Ended June 30, 2008

Ernst & Young LLP

 **ERNST & YOUNG**



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## Report of Independent Accountants

Zapata County Independent School District  
Universal Service Administrative Company  
Federal Communications Commission

We have examined Zapata County Independent School District's (the "District's") (Beneficiary Number 141503) compliance with 47 CFR Part 54 and relevant Federal Communications Commission ("FCC") Orders identified in the accompanying Attachment 1 and Universal Service Administrative Company ("USAC") implementing procedures, as applicable, (collectively, the "Rules") related to specific support payments of \$748,005.38 disbursed from the Universal Service Fund under the Schools and Libraries Support Mechanism during the fiscal year ended June 30, 2008, relative to Funding Years 2005, 2006, and 2007 as listed in Attachment 2. Management is responsible for the District's compliance with those Rules. Our responsibility is to express an opinion on the District's compliance based on our examination.

Except as discussed in the following paragraphs, our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence about the District's compliance with those Rules and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on the District's compliance with specified Rules.

We were unable to obtain sufficient documentation from service providers supporting compliance with 47 CFR §54.500 (b), 47 CFR §54.502, 47 CFR §54.504 (b) (2) (iii), 47 CFR §54.504 (b) (2) (v), 47 CFR §54.504 (c) (1) (vii), 47 CFR §54.504 (f), 47 CFR §54.505 (a), 47 CFR §54.513 (c), and 47 CFR §54.523 (eligible services) related to the invoices listed in Attachment 5, nor were we able to satisfy ourselves as to the compliance with those rules for those invoices by other auditing procedures.

We were unable to obtain sufficient documentation from the District supporting compliance with 47 CFR §54.500 (b), 47 CFR §54.502, 47 CFR §54.504 (b) (2) (iii), 47 CFR §54.504 (b) (2) (v), 47 CFR §54.504 (c) (1) (vii), 47 CFR §54.504 (f), 47 CFR §54.505 (a), 47 CFR §54.513 (c), and 47 CFR §54.523 (eligible services) related to the invoices listed in SL2008BE074\_F05, nor were we able to satisfy ourselves as to the compliance with those rules for those invoices by other auditing procedures.



We were unable to obtain sufficient documentation from the District supporting compliance with FCC Order 00-167, Paragraph 10, related to Funding Request Numbers listed in SL2008BE074\_F03 (competitive bidding), nor were we able to satisfy ourselves as to the compliance with that rules for those FRNs by other auditing procedures.

Our examination disclosed material noncompliance with respect to document retention matters applicable to the District relative to the specific support payments listed in Attachment 2, disbursed from the Universal Service Fund under the Schools and Libraries Support Mechanism during the fiscal year ended June 30, 2008. Detailed information relative to the material noncompliance is described in Findings SL2008BE074\_F01 through SL2008BE074\_F07 in Attachment 3.

In our opinion, because of the effect of the material noncompliance described in the sixth paragraph, the District has not complied with the aforementioned Rules relative to the specific support payments disbursed from the Universal Service Fund under the Schools and Libraries Support Mechanism during the fiscal year ended June 30, 2008 as listed in Attachment 2.

#### ***Internal Control over Compliance***

The management of the District is responsible for establishing and maintaining effective internal control over compliance with the Rules. In planning and performing our examination, we considered the District's internal control over compliance with the Rules that could have a direct and material effect on compliance with the Rules in order to determine our examination procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the District's internal control over compliance.

Our consideration of internal control over compliance was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in the entity's internal control that might be significant deficiencies or material weaknesses as defined below. However, as discussed below, we identified significant deficiencies in internal control over compliance that we consider to be material weaknesses.

A *control deficiency* in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement on a timely basis. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to administer a program such that there is a more than a remote likelihood that noncompliance with a type of compliance requirement that is more than inconsequential will not be prevented or detected by the entity's internal control. We consider the deficiencies in internal control over compliance, SL2008BE074\_F01 through SL2008BE074\_F07 and SL2008BE074\_C01, described in Attachment 3 to be significant deficiencies.



*A material weakness* is a significant deficiency, or a combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement will not be prevented or detected by the entity's internal controls. We consider the significant deficiencies in internal control over compliance listed in the previous paragraph, SL2008BE074\_F01 through SL2008BE074\_F07 and SL2008BE074\_C01, to be material weaknesses.

The District's responses to the findings and comments identified in Attachment 3 to this report are described in Attachment 4. We did not perform an examination of the District's responses and accordingly, we express no opinion on them.

This report is intended solely for the information and use of the District, the USAC, and the FCC, and is not intended to be and should not be used by anyone other than these specified parties.

*Ernst & Young LLP*

October 5, 2009

**Attachment 1 to Report of Independent Accountants  
Zapata County Independent School District  
47 CFR Part 54 and Relevant Federal Communications Commission Orders  
with which Compliance was Examined, As Applicable**

Section 54.500 (b) which was effective as of July 21, 2003  
Section 54.501 (b), as revised, which was originally effective as of July 17, 1997  
Section 54.502, as revised, which was originally effective as of July 17, 1997  
Section 54.503, as revised, which was originally effective as of July 17, 1997  
Section 54.504 (a) which was effective as of February 12, 1997, with clarification included in FCC Order 03-313, par 39 & 56, which was issued December 8, 2003  
Section 54.504 (b) (1), as revised, which was originally effective as of July 17, 1997  
Section 54.504 (b) (2), as revised, which was originally effective as of July 17, 1997  
Section 54.504 (b) (2) (i) as revised, which was originally effective as of February 12, 1998  
Section 54.504 (b) (2) (iii), which was effective as of October 13, 2004  
Section 54.504 (b) (2) (iv), which was effective as of October 13, 2004 which superseded Section 54.504 (b) (2) (ii) which was effective as of February 12, 1998;  
Section 54.504 (b) (2) (v) which was effective as of October 13, 2004  
Section 54.504 (b) (2) (vi) which was effective as of October 13, 2004  
Section 54.504 (b) (4)<sup>1</sup> which was effective as of January 1, 1999  
Section 54.504 (c) which was effective as of February 12, 1998, with clarification included in FCC Order 04-190, par 48, which was issued August 13, 2004  
Section 54.504 (c) (1) (vii) which was effective as of October 13, 2004  
Section 54.504 (c) (1) (x) which was effective as of October 13, 2004  
Section 54.504 (f) which were effective as of March 11, 2004  
Section 54.504 which was effective from July 17, 1997, with confirmation of earlier administrative practices included in FCC Order 03-313, paragraph 60, that confirmed earlier administrative practices, which was issued on December 8, 2003, and codified in Section 54.504 (g) which was effective as of March 11, 2004  
Section 54.504 which was effective from July 17, 1997, with confirmation of earlier administrative practices included in FCC Order 03-313, paragraph 60, that confirmed earlier administrative practices, which was issued on December 8, 2003, and codified in Section 54.523, which was effective as of March 11, 2004  
Section 54.505 (a) which was effective as of July 17, 1997  
Section 54.505 (b)<sup>2</sup> which was effective as of July 17, 1997  
Section 54.505 (c), as revised, which was originally effective as of July 17, 1997  
Section 54.506 (a), as revised, which was originally effective as of February 12, 1998  
Section 54.506 (b) which was effective as of October 13, 2004  
Section 54.507 (d), as revised, which was effective as of July 17, 1997

<sup>1</sup> Section 54.504 (b) (4) interpreted to mean 'After posting on the Administrator's website an eligible school's, library's, or consortium's FCC Form 470, that entity shall then wait at least four weeks from the date on which its description of services is posted on the Administrator's website before making commitments with the selected providers or services'.

<sup>2</sup> Per FCC Wireline Competition Bureau memorandum with the subject *The E-Rate Program and Apparent Violations of USDA NSLP Rules* dated February 25, 2005 from Jeffrey J. Carlisle, Chief, Wireline Competition Bureau, to Walker Feaster, Inspector General, summary reports of National School Lunch Program data may be relied upon to support the poverty rate computation.

**Attachment 1 to Report of Independent Accountants (continued)**  
**Zapata County Independent School District**

Section 54.508 (a) which was effective as of October 13, 2004  
Section 54.508 (c) which was effective as of October 13, 2004  
Section 54.511 (a) which was effective as of July 21, 2003  
Section 54.513 (c) which was effective March 11, 2004  
Section 54.514 (b), as revised, which was originally effective as of July 21, 2003  
Section 54.516 (a) (1)<sup>3</sup> which was effective as of October 13, 2004  
Section 54.520 (c) which was effective as of April 20, 2001  
Section 54.523 which was effective as of March 11, 2004, clarified in FCC Order 04-190,  
paragraph 24 which was issued August 13, 2004  
FCC order 00-167, paragraph 10 which was issued on May 23, 2000

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<sup>3</sup> Per FCC Wireline Competition Bureau memorandum with the subject *The E-Rate Program and Apparent Violations of USDA NSLP Rules* dated February 25, 2005 from Jeffrey J. Carlisle, Chief, Wireline Competition Bureau, to Walker Feaster, Inspector General, summary reports of National School Lunch Program data may be relied upon to support the poverty rate computation.

**Attachment 2 to Report of Independent Accountants  
Zapata County Independent School District  
Support Payments Disbursed from the Universal Service Fund  
under the Schools and Libraries Support Mechanism  
During the Fiscal Year Ended June 30, 2008**

<b>Funding Request Number</b>	<b>Funding Year</b>	<b>Type of Service</b>	<b>Amount Disbursed</b>
1348366	2005	Internal Connections	\$ 35,404.64
1348407	2005	Internal Connections	20,402.20
1348466	2005	Internal Connections	10,909.87
1348542	2005	Internal Connections	10,909.87
1348578	2005	Internal Connections	47,041.30
1348605	2005	Internal Connections	49,104.96
1348638	2005	Internal Connections	24,605.06
1348663	2005	Internal Connections	328,267.34
1468705	2006	Telecommunications	42,461.40
1470084	2006	Telecommunications	10,064.72
1470312	2006	Telecommunications	17,605.32
1517632	2007	Internet Access	30,750.05
1517636	2007	Internet Access	78,017.25
1524732	2007	Telecommunications	42,461.40
		<b>Total</b>	<b><u>\$748,005.38</u></b>

**Attachment 3 to Report of Independent Accountants  
Zapata County Independent School District  
Detailed Information Relative to  
Material Noncompliance, Material Weaknesses, Significant Deficiencies, or  
Immaterial Instances of Noncompliance Presented in Accordance with the Standards  
Applicable to Attestation Engagements Contained in *Government Auditing Standards***

Issue Number

SL2008BE074\_F01

Condition

The Zapata County Independent School District (the "District") has stated it has used an income survey method as an alternative discount method calculation for National School Lunch Program ("NSLP") purposes. However, the poverty rate was based on income surveys completed only by new students admitted each year and not based on income surveys of all the students in any particular year.

Funding Request Numbers ("FRNs") provided for examination affected by this issue are as follows:

Funding Request Number	Pre-discount Amount	Amount Reimbursable at Minimum 25%	Amount Disbursed	Difference
1348366	\$ 41,168.19	\$ 10,292.05	\$ 35,404.64	\$ 25,112.59
1348407	23,723.49	5,930.87	20,402.20	14,471.33
1348542	12,685.89	3,171.47	10,909.87	7,738.40
1348578	54,699.19	13,674.80	47,041.30	33,366.50
1348605	57,098.79	14,274.70	49,104.96	34,830.26
1348638	28,610.53	7,152.63	24,605.06	17,452.43
1348663	381,706.21	95,426.55	328,267.34	232,840.79
1468705	50,549.28	12,637.32	42,461.40	29,824.08
1470084	11,981.81	2,995.45	10,064.72	7,069.27
1470312	20,958.72	5,239.68	17,605.32	12,365.64
1517632	36,607.20	9,151.80	30,750.05	21,598.25
1517636	89,675.00	22,418.75	78,017.25	55,598.50
1524732	50,549.28	12,637.32	42,461.40	29,824.08
Totals	\$860,013.58	\$215,003.40	\$737,095.51	\$522,092.12

An amount of \$737,095.51 was examined.

Criteria

Per 47 CFR §54.505 (b), "Discount percentages. The discounts available to eligible schools and libraries shall range from 20 percent to 90 percent of the pre-discount price for all eligible services provided by eligible providers, as defined in this subpart. The discounts available to a particular school, library, or consortium of only such entities shall be determined by indicators of poverty and high cost. (1) For schools and school districts, the level of poverty shall be measured by the percentage of their student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a

**Attachment 3 to Report of Independent Accountants (continued)**  
**Zapata County Independent School District**

federally-approved alternative mechanism. School districts applying for eligible services on behalf of their individual schools may calculate the district-wide percentage of eligible students using a weighted average. For example, a school district would divide the total number of students in the district eligible for the national school lunch program by the total number of students in the district to compute the district-wide percentage of eligible students. Alternatively, the district could apply on behalf of individual schools and use the respective percentage discounts for which the individual schools are eligible."

Per the Universal Service Administrative Company website, step 5 (<http://www.usac.org/sl/applicants/step05/alternative-discount-mechanisms.aspx>): "A school may design a survey that provides the necessary information that measures a family's level of need. Applicants cannot use National School Lunch Application forms as surveys. Surveys must be based on the following guidelines:

- The survey must be sent to all families whose children attend the school.
- The survey must, at a minimum, contain the following information:
  - Name of family and students
  - Size of the family
  - Income level of the family

Income data (or eligibility data based on income) from a survey used to support a discount level for a funding request cannot be older than two years before the start of the funding year. For example, the data gathered from an income survey done in September 2005 can be used for funding requests for Funding Year 2006 and Funding Year 2007, but not for Funding Year 2008. Therefore, surveys must be done at least every other year."

Cause                      The District misunderstood the published guidelines for alternative methods of calculating the level of poverty.

Effect                     An amount of \$522,092.12 is subject to recovery by the Universal Service Administrative Company.

\$501,988.08 of the amount is included in SL2008BE074\_F02.

\$365,812.30 of the amount is included in SL2008BE074\_F03.

\$243,506.54 of the amount is included in SL2008BE074\_F04

\$5,460.68 of the amount is included in SL2008BE074\_F05.

\$768.12 of the amount is included in SL2008BE074\_F06.

\$251.81 of the amount is included in SL2008BE074\_C01.

**Attachment 3 to Report of Independent Accountants (continued)**  
**Zapata County Independent School District**

Recommendation	The District should conduct an income survey that meets program requirements as soon as possible to establish and document the discount rate for future funding applications, and conduct these surveys at least once every two years.
Beneficiary Response	See Attachment 4.
Auditor's Response to Beneficiary Response	<p>At the start of audit, Zapata County Independent School District ("District") representatives, advised they were using the Provision 2 exemption with 1996 as the base year. Upon request of the base year supporting data, District personnel could not provide it and advised it had been destroyed.</p> <p>The use of Provision 2 allows for the use of a fixed discount rate on the Form 471 while the exemption is in place. Examination of the Form 471, however, showed changes in the discount rate between the funding years in the scope of the audit. The District technology consultant advised the District was no longer using Provision 2 and that salary surveys were now the method used to support the discount calculation on the Form 471. The consultant also shared a letter from the Texas Department of Agriculture Director of Compliance Monitoring issued in 2008 related to the District's NSLP program. The letter advised a new Provision 2 base year needed to be established because documentation from the original year had not been retained. Therefore, all further audit procedures performed by Ernst &amp; Young assumed the Provision 2 exemption was not used by the District.</p>

**Attachment 3 to Report of Independent Accountants (continued)**  
**Zapata County Independent School District**

Issue Number	SL2008BE074_F02
Condition	<p>Zapata County Independent School District (the "District") state and local procurement policy requires the District advertise in a local newspaper when and where submitted bids will be received and opened if the value of the contract exceeds \$25,000. This advertisement must be posted once a week, or at the very least, once every other week until the deadline for bid submission. The state and local policy also requires any purchase of services and equipment in excess of \$25,000 to have board approval. The District was unable to provide evidence of the newspaper advertisements and any support which indicated that the board had approved the purchase of Internal Connection services related to Funding Request Numbers 1348366, 1348407, 1348578, 1348605, 1348638, 1348663, 1468705, 1470084, 1517632, 1517636, and 1524732. This issue affects \$708,580.32 of \$737,095.51 examined.</p>
Criteria	<p>Per 47 CFR §54.504 (a), "Competitive bid requirements. Except as provided in §54.511(c), an eligible school, library, or consortium that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart, for all services eligible for support under §54.502 and §54.503. These competitive bid requirements apply in addition to state and local competitive bid requirements and are not intended to preempt such state or local requirements."</p> <p>Per 47 CFR §54.516 (a) (1), "Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools and libraries shall maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment for a period of five years after purchase."</p> <p>Per 47 CFR §54.504 (c) (1) (x), "The applicant recognizes that it may be audited pursuant to its application, that it will retain for five years any and all worksheets and other records relied upon to fill out its application, and that, if audited, it will make such records available to the Administrator."</p>

**Attachment 3 to Report of Independent Accountants (continued)**  
**Zapata County Independent School District**

Cause	The District's key person is currently on active military duty overseas. This individual was purported to be the only person who can locate the documentation.
Effect	<p>An amount of \$708,580.32 is subject to recovery by the Universal Service Administrative Company. This amount includes the amounts in SL2008BE074_F06 and SL2008BE074_C01.</p> <p>\$501,988.08 is included in SL2008BE074_F01.</p> <p>\$504,825.50 is included in SL2008BE074_F03.</p> <p>\$307,931.34 is included in SL2008BE074_F04.</p> <p>\$2,512.87 is included in SL2008BE074_F05.</p>
Recommendation	The District should file and retain all invoice and bid documentation, including newspaper advertisements and bid evaluation documentation for a period of five years from the last date of service in a manner that does not rely on one person to locate the documentation.
Beneficiary Response	See Attachment 4.
Auditor's Response to Beneficiary's Response	Evidence of the posting was not provided. Web posting does not appear to comply with State procurement rules.

**Attachment 3 to Report of Independent Accountants (continued)**  
**Zapata County Independent School District**

Issue Number	SL2008BE074_F03
Condition	<p>The Zapata Independent School District (the "District") was unable to provide the bid documentation from the three unsuccessful bidders (IES, Inc., STE, and I2I) related to Funding Request Numbers 1348366, 1348407, 1348542, 1348578, 1348605, 1348638, and 1348663. In addition, an analysis was not provided that showed how the winning bidder, Integrity, was selected and that Integrity was the most cost-effective bidder. This issue affects \$515,735.37 of \$737,095.51 examined.</p>
Criteria	<p>Per 47 CFR §54.511 (a), "Selecting a provider of eligible services. In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers but price should be the primary factor considered."</p> <p>Per 47 CFR §54.516 (a) (1), "Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools and libraries shall maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment for a period of five years after purchase."</p> <p>Per 47 CFR §54.504 (c) (1) (x), "The applicant recognizes that it may be audited pursuant to its application, that it will retain for five years any and all worksheets and other records relied upon to fill out its application, and that, if audited, it will make such records available to the Administrator."</p>
Cause	<p>The District's key person is currently on active military duty overseas. This individual was purported to be the only person who can locate the documentation.</p>
Effect	<p>An amount of \$515,735.37 is subject to recovery by the Universal Service Administrative Company.</p> <p>\$365,812.30 of the amount is included in SL2008BE074_F01.</p>

**Attachment 3 to Report of Independent Accountants (continued)**  
**Zapata County Independent School District**

\$504,825.50 of the amount is included in SL2008BE074\_F02.

\$300,213.40 of the amount is included in SL2008BE074\_F04.

\$697.47 of the amount is included in SL2008BE074\_F06.

**Recommendation**

The District should file and retain all documentation for a period of five years from the last date of service in a manner that does not rely on one person to locate the documentation.

**Beneficiary Response**

See Attachment 4.